

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

WILLIE L. HARRIS,

Plaintiff,

v.

Civil Action No. 2:13-10803

TERRY KINDER and
TIMOTHY PERKINS,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending are the motions by defendants Terry Kinder and Timothy Perkins to dismiss for plaintiff's failure to participate in discovery, filed August 14, 2014, and for summary judgment filed September 15, 2014.

This action was previously referred to Dwane L. Tinsley, United States Magistrate Judge, who has submitted his Proposed Findings and Recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B). The court has reviewed the Proposed Findings and Recommendation entered by the magistrate judge on December 16, 2014. The magistrate judge recommends that the defendants' motions be granted.

The plaintiff has not objected to the Proposed Findings and Recommendation. The court has undertaken

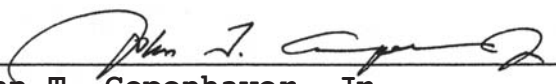
substantial measures to provide notice to Mr. Harris. The court transmitted two certified mailings to him respectively on October 20, 2014, and December 16, 2014, the latter of which was the Proposed Findings and Recommendation in this action. These two mailings were returned unclaimed respectively on November 14, 2014, and January 14, 2015. The mailings were addressed to Mr. Harris in Beckley at P.O. Box 5374, which he provided to the court as his proper mailing address as of January 29, 2014. It is plaintiff's obligation to provide accurate contact information and to retrieve mail sent to him.

Accordingly, based upon the foregoing, it is ORDERED as follows:

1. That the Proposed Findings and Recommendation be, and it hereby is, adopted by the court;
2. That the motions for summary judgment and to dismiss for plaintiff's failure to participate in discovery be, and hereby are, granted;
3. That this action be, and hereby is, dismissed and stricken from the docket.

The Clerk is directed to forward copies of this written opinion and order to the pro se plaintiff at his last known mailing address, all counsel of record, and the United States Magistrate Judge.

DATED: February 12, 2015



John T. Copenhaver, Jr.
United States District Judge